

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed Emergency After Notice**

**Rule making related to downtown loan guarantee program**

The Economic Development Authority hereby rescinds Chapter 36, “Film, Television, and Video Project Promotion Program,” and adopts a new Chapter 36, “Downtown Loan Guarantee Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.431.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 15.431.

*Purpose and Summary*

Pursuant to Iowa Code section 15.431, the Authority shall establish a Downtown Loan Guarantee Program. The purpose of the program is to encourage Iowa downtown businesses and banks to reinvest and reopen following the COVID-19 pandemic.

The loan guarantee is available to businesses that are eligible for a downtown resource center community catalyst building remediation grant or main street Iowa challenge Grant. The project must include a housing component and meet downtown resource center and main street Iowa design review criteria. Authority staff, in conjunction with Iowa Finance Authority staff, will review applications and make a recommendation as to whether an application should be approved and, if so, the guarantee percentage. The Authority Director may approve, deny, or defer an application.

This new chapter replaces the current chapter relating to the Film, Television, and Video Promotion Program. The program was repealed in 2012.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 20, 2021, as **ARC 5984C**. No public comments were received. Two changes from the Notice have been made. References to 2021 Iowa Acts, Senate File 619, have been removed in rule 261—36.1(15) and the chapter implementation sentence since the legislation has been codified.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Authority finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on December 17, 2021, because the rule making implements a new loan guarantee program for the benefit of Iowa downtown businesses.

*Adoption of Rule Making*

This rule making was adopted by the Authority Board on December 17, 2021.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

### *Effective Date*

This rule making became effective on December 17, 2021.

The following rule-making action is adopted:

Rescind 261—Chapter 36 and adopt the following **new** chapter in lieu thereof:

### **CHAPTER 36 DOWNTOWN LOAN GUARANTEE PROGRAM**

**261—36.1(15) Purpose.** Pursuant to Iowa Code section 15.431, the authority, in partnership with the Iowa finance authority, shall establish and administer a downtown loan guarantee program. The purpose of the program is to encourage Iowa downtown businesses and banks to reinvest and reopen following the COVID-19 pandemic.

**261—36.2(15) Definitions.**

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Authority’s website*” means the information and related content found at [www.iowaeda.com](http://www.iowaeda.com) and may include integrated content at affiliate sites.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Borrower*” means a business that is approved for a loan by a lender and that has applied for assistance under the program.

“*Director*” means the director of the authority.

“*Iowa finance authority*” means the public instrumentality and agency of the state created by Iowa Code section 16.1A.

“*Lender*” means a federally insured financial lending institution that issued a loan to a borrower.

“*Program*” means the downtown loan guarantee program established pursuant to this chapter.

**261—36.3(15) Eligibility.** To be eligible for approval of a loan guarantee, a borrower must demonstrate that all of the following conditions are met:

**36.3(1)** The loan finances an eligible downtown resource center community catalyst building remediation grant project or main street Iowa challenge grant project within a designated district. A borrower does not need to receive a grant to be eligible for a loan guarantee under the program, but a borrower and proposed project must meet all eligibility criteria for either the community catalyst building remediation grant or main street Iowa challenge grant.

**36.3(2)** The loan finances a rehabilitation project, or finances acquisition or refinancing costs associated with the project.

**36.3(3)** At least 25 percent of the project costs are used for construction on the project or renovation.

**36.3(4)** The project includes a housing component.

**36.3(5)** The loan is used for construction of the project, permanent financing of the project, or both.

**36.3(6)** A federally insured financial lending institution issued the loan.

**36.3(7)** The loan does not reimburse the borrower for working capital, operations, or similar expenses.

**36.3(8)** The project meets downtown resource center and main street Iowa design review criteria.

**261—36.4(15) Application submittal and review process.**

**36.4(1)** The authority will develop a standardized application process and make information on applying available on the authority's website. To apply for assistance under the program, the borrower and lender shall submit an application to the authority in the manner prescribed by the authority. Applications will be accepted and processed by authority staff on a continuing basis, or the authority may establish application periods as announced on the authority's website.

**36.4(2)** Each application shall include, at a minimum, the following: name(s) and address(es) of the borrower and participating lender, amount of loan, amount of loan guarantee requested, and certification of compliance with state law and lending practices.

**36.4(3)** The authority may refuse to accept incomplete applications.

**36.4(4)** The authority may refuse to accept applications because of insufficient funds.

**36.4(5)** Authority staff, in conjunction with Iowa finance authority staff, will review applications and make a recommendation as to whether an application should be approved and the guarantee percentage. The director may approve, deny, or defer an application.

**36.4(6)** The authority reserves the right to deny a loan guarantee for unreasonable bank loan fees or interest rates.

**261—36.5(15) Loan guarantee limitations.**

**36.5(1)** For a loan amount less than or equal to \$500,000, the authority may guarantee up to 50 percent of the loan amount. For a loan amount greater than \$500,000, the authority may provide a maximum loan guarantee of up to \$250,000.

**36.5(2)** A project loan must be secured by a mortgage against the project property.

**36.5(3)** The authority may guarantee loans for up to five years. The authority may extend the loan guarantee for an additional five years if an underwriting review finds that an extension would be beneficial. Extensions are subject to approval by the director.

**36.5(4)** The loan must not be insured or guaranteed by another local, state, or federal guarantee program.

**36.5(5)** The loan guarantee is not transferable if the loan or the project is sold or transferred.

**36.5(6)** In the event of a loss due to default, the loan guarantee proportionally pays the guarantee percentage of the loss to the lender as established in the agreement executed pursuant to rule 261—36.7(15).

**261—36.6(15) Annual fee.** The lender shall pay an annual loan guarantee fee not to exceed 2 percent of the loan amount for the duration of the loan guarantee. The fee applicable to each approved loan guarantee will be established by the program agreement executed pursuant to rule 261—36.7(15).

**261—36.7(15) Agreement.** Upon approval of an award, authority staff shall prepare an agreement between the authority, the lender, and the borrower. The agreement, at a minimum, shall include the conditions of the award, including the applicable annual fee to be paid by the lender pursuant to rule 261—36.6(15), the responsibilities of each party, and the potential actions in instances of noncompliance.

**261—36.8(15) Reporting.** The borrower and lender shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly, or the governor's office.

These rules are intended to implement Iowa Code section 15.431.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/12/22.